

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1283

Introduced by Senator Chesbro

February 14, 2006

An act to amend Sections 4512, ~~4551~~ 4521, 4551, 4622, 4646.5, 4648, 4677, 4701.6, 4705, 4747, and 4803 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1283, as amended, Chesbro. Area Boards on Developmental Disabilities.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to allocate funds to private nonprofit regional centers for the provision of community services and support for persons with developmental disabilities and their families, and sets forth the duties of the regional centers, including, but not limited to, development of individual program plans and the monitoring of services.

This bill would change from 6 to 7, the length of years within an 8-year period that a member of a regional center governing board may serve.

Existing law provides for the establishment of the State Council on Developmental Disabilities and sets forth its duties and responsibilities, including, but not limited to, development of the California Developmental Disabilities State Plan in accordance with federal law. Existing law establishes the area boards on developmental disabilities under the jurisdiction of the council and sets forth their powers and duties including, but not limited to, assisting the council

and advocating for, and protecting the rights of, persons with developmental disabilities.

This bill would require the Governor to appoint a deputy director for area board operations upon the recommendation of the executive director of the council, rather than upon recommendation of the council. *The bill would require the Governor to appoint to the council the executive director of the California advocacy agency under federal law, rather than a member of that agency's board of directors.* The bill would require the council to request information from regional centers regarding available and needed services and supports at least once every 5 years rather than every 3 years, would require the request to be made in conjunction with the area boards, *would specify the information to be considered in making the needs assessment*, and would require the methodology for collection and the display format of the information to be jointly determined by the council and the Association of Regional Center Agencies. *The bill would require that the assessment be updated annually, be provided to the department and the Legislature, and be made available to the public.* The bill would make other changes of a technical, nonsubstantive nature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4512 of the Welfare and Institutions
2 Code is amended to read:
3 4512. As used in this division:
4 (a) "Developmental disability" means a disability that
5 originates before an individual attains age 18 years, continues, or
6 can be expected to continue, indefinitely, and constitutes a
7 substantial disability for that individual. As defined by the
8 Director of Developmental Services, in consultation with the
9 Superintendent of Public Instruction, this term shall include
10 mental retardation, cerebral palsy, epilepsy, and autism. This
11 term shall also include disabling conditions found to be closely
12 related to mental retardation or to require treatment similar to
13 that required for individuals with mental retardation, but shall not
14 include other handicapping conditions that are solely physical in
15 nature.

1 (b) “Services and supports for persons with developmental
2 disabilities” means specialized services and supports or special
3 adaptations of generic services and supports directed toward the
4 alleviation of a developmental disability or toward the social,
5 personal, physical, or economic habilitation or rehabilitation of
6 an individual with a developmental disability, or toward the
7 achievement and maintenance of independent, productive,
8 normal lives. The determination of which services and supports
9 are necessary for each consumer shall be made through the
10 individual program plan process. The determination shall be
11 made on the basis of the needs and preferences of the consumer
12 or, when appropriate, the consumer’s family, and shall include
13 consideration of a range of service options proposed by
14 individual program plan participants, the effectiveness of each
15 option in meeting the goals stated in the individual program plan,
16 and the cost-effectiveness of each option. Services and supports
17 listed in the individual program plan may include, but are not
18 limited to, diagnosis, evaluation, treatment, personal care, day
19 care, domiciliary care, special living arrangements, physical,
20 occupational, and speech therapy, training, education, supported
21 and sheltered employment, mental health services, recreation,
22 counseling of the individual with a developmental disability and
23 of his or her family, protective and other social and sociolegal
24 services, information and referral services, follow-along services,
25 adaptive equipment and supplies, advocacy assistance, including
26 self-advocacy training, facilitation and peer advocates,
27 assessment, assistance in locating a home, child care, behavior
28 training and behavior modification programs, camping,
29 community integration services, community support, daily living
30 skills training, emergency and crisis intervention, facilitating
31 circles of support, habilitation, homemaker services, infant
32 stimulation programs, paid roommates, paid neighbors, respite,
33 short-term out-of-home care, social skills training, specialized
34 medical and dental care, supported living arrangements, technical
35 and financial assistance, travel training, training for parents of
36 children with developmental disabilities, training for parents with
37 developmental disabilities, vouchers, and transportation services
38 necessary to ensure delivery of services to persons with
39 developmental disabilities. Nothing in this subdivision is
40 intended to expand or authorize a new or different service or

1 support for any consumer unless that service or support is
2 contained in his or her individual program plan.

3 (c) Notwithstanding subdivisions (a) and (b), for any
4 organization or agency receiving federal financial participation
5 under the federal Developmental Disabilities Assistance and Bill
6 of Rights Act, as amended “developmental disability” and
7 “services for persons with developmental disabilities” means the
8 terms as defined in the federal act to the extent required by
9 federal law.

10 (d) “Consumer” means a person who has a disability that
11 meets the definition of developmental disability set forth in
12 subdivision (a).

13 (e) “Natural supports” means personal associations and
14 relationships typically developed in the community that enhance
15 the quality and security of life for people, including, but not
16 limited to, family relationships, friendships reflecting the
17 diversity of the neighborhood and the community, associations
18 with fellow students or employees in regular classrooms and
19 workplaces, and associations developed through participation in
20 clubs, organizations, and other civic activities.

21 (f) “Circle of support” means a committed group of
22 community members, who may include family members,
23 meeting regularly with an individual with developmental
24 disabilities in order to share experiences, promote autonomy and
25 community involvement, and assist the individual in establishing
26 and maintaining natural supports. A circle of support generally
27 includes a plurality of members who neither provide nor receive
28 services or supports for persons with developmental disabilities
29 and who do not receive payment for participation in the circle of
30 support.

31 (g) “Facilitation” means the use of modified or adapted
32 materials, special instructions, equipment, or personal assistance
33 by an individual, such as assistance with communications, that
34 will enable a consumer to understand and participate to the
35 maximum extent possible in the decisions and choices that effect
36 his or her life.

37 (h) “Family support services” means services and supports that
38 are provided to a child with developmental disabilities or his or
39 her family and that contribute to the ability of the family to reside
40 together.

1 (i) “Voucher” means any authorized alternative form of
2 service delivery in which the consumer or family member is
3 provided with a payment, coupon, chit, or other form of
4 authorization that enables the consumer or family member to
5 choose his or her own service provider.

6 (j) “Planning team” means the individual with developmental
7 disabilities, the parents or legally appointed guardian of a minor
8 consumer or the legally appointed conservator of an adult
9 consumer, the authorized representative, including those
10 appointed pursuant to subdivision (d) of Section 4548 and
11 subdivision (e) of Section 4705, one or more regional center
12 representatives, including the designated regional center service
13 coordinator pursuant to subdivision (b) of Section 4640.7, any
14 individual, including a service provider, invited by the consumer,
15 the parents or legally appointed guardian of a minor consumer or
16 the legally appointed conservator of an adult consumer, or the
17 authorized representative, including those appointed pursuant to
18 subdivision (d) of Section 4548 and subdivision (e) of Section
19 4705.

20 (k) “Stakeholder organizations” means statewide organizations
21 representing the interests of consumers, family members, service
22 providers, and statewide advocacy organizations.

23 (l) “Substantial disability” means the existence of significant
24 functional limitations in three or more of the following areas of
25 major life activity, as determined by a regional center, and as
26 appropriate to the age of the person:

- 27 (1) Self-care.
- 28 (2) Receptive and expressive language.
- 29 (3) Learning.
- 30 (4) Mobility.
- 31 (5) Self-direction.
- 32 (6) Capacity for independent living.
- 33 (7) Economic self-sufficiency.

34 Any reassessment of substantial disability for purposes of
35 continuing eligibility shall utilize the same criteria under which
36 the individual was originally made eligible.

37 *SEC. 1.5. Section 4521 of the Welfare and Institutions Code*
38 *is amended to read:*

39 4521. (a) All references to “state council” in this part shall be
40 a reference to the State Council on Developmental Disabilities.

(b) There shall be 29 voting members on the state council appointed by the Governor, as follows:

(1) One member from each of the 13 area boards on developmental disabilities described in Article 6 (commencing with Section 4543), nominated by the area board to serve as a council member, who shall be persons with a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, or parents or guardians of minors with developmental disabilities or conservators of adults with developmental disabilities residing in California. Five of these members shall be persons with a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, three shall be parents, immediate relatives, guardians, or conservators of persons with developmental disabilities, and five shall be either a person with a developmental disability or a parent, immediate relatives, guardian, or conservator of a person with a developmental disability. The nominee from each area board shall be an area board member who was appointed by the Governor.

(2) Ten members of the council shall include the following:

(A) The Secretary of the California Health and Human Services Agency, or his or her designee, who shall represent the agency and the state agency that administers funds under Title XIX of the Social Security Act for people with developmental disabilities.

(B) The Director of Developmental Services or his or her chief deputy.

(C) The Director of Rehabilitation or his or her chief deputy.

(D) The Superintendent of Public Instruction or his or her designee.

(E) A representative from a nongovernmental agency or group concerned with the provision of services to persons with developmental disabilities.

(F) One representative from each of the two university centers for excellence in the state, pursuant to 42 U.S.C. Section 15061 et seq., providing training in the field of developmental services. These individuals shall have expertise in the field of developmental disabilities.

(G) The Director of Health Services or his or her chief deputy.

1 (H) ~~A member of the board of directors~~ *The executive director*
2 of the agency established in California to fulfill the requirements
3 and assurance of ~~Section 142 of the Developmental Disabilities~~
4 ~~Act of 1984~~ *Title I, Subtitle C, of the federal Developmental*
5 *Disabilities Assistance and Bill of Rights Act of 2000* for a
6 system to protect and advocate the rights of persons with
7 developmental disabilities, *or his or her designee.*

8 (I) The Director of Aging or his or her chief deputy.

9 (3) Six members at large, appointed by the Governor, as
10 follows:

11 (A) Two shall be persons with developmental disabilities, as
12 defined in Section 15002(8) of Title 42 of the United States
13 Code.

14 (B) One shall be a person who is a parent, immediate relative,
15 guardian, or conservator of a resident of a developmental center.

16 (C) One shall be a person who is a parent, immediate relative,
17 guardian, or conservator of a person with a developmental
18 disability living in the community.

19 (D) One shall be a person who is a parent, immediate relative,
20 guardian, or conservator of a person with a developmental
21 disability living in the community, nominated by the Speaker of
22 the Assembly.

23 (E) One shall be a person with developmental disabilities, as
24 defined in Section 15002(8) of Title 42 of the United States
25 Code, nominated by the Senate Committee on Rules.

26 (c) Prior to appointing the 29 members pursuant to this
27 section, the Governor shall request and consider
28 recommendations from organizations representing, or providing
29 services to, or both, persons with developmental disabilities, and
30 shall take into account socioeconomic, ethnic, and geographic
31 considerations of the state.

32 (d) The term of each member described in paragraph (1) of,
33 subparagraphs (E) and (H) of paragraph (2) of, and paragraph (3)
34 of, subdivision (b) shall be for three years; provided, however, of
35 the members first appointed by the Governor pursuant to
36 paragraph (1) of subdivision (b), five shall hold office for three
37 years, four shall hold office for two years, and four shall hold
38 office for one year. In no event shall any member described in
39 paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of,
40 and paragraph (3) of, subdivision (b) serve for more than a total

1 of six years of service. Service by any individual on any state
2 council on developmental disabilities existing on and after
3 January 1, 2003, shall be included in determining the total length
4 of service.

5 (e) Members appointed to the state council prior to June 1,
6 2002, shall continue to serve until the term to which they were
7 appointed expires. Members appointed on June 1, 2002, or
8 thereafter shall have their terms expire on January 1, 2003.

9 (f) Notwithstanding subdivision (c) of Section 4546, members
10 described in subdivision (b) shall continue to serve on the area
11 board following the expiration of their term on the area board
12 until their term on the state council has expired.

13 (g) A member may continue to serve following the expiration
14 of his or her term until the Governor appoints that member's
15 successor. The state council shall notify the Governor regarding
16 membership requirements of the council and shall notify the
17 Governor at least 60 days before a member's term expires, and
18 when a vacancy on the council remains unfilled for more than 60
19 days.

20 SEC. 2. Section 4551 of the Welfare and Institutions Code is
21 amended to read:

22 4551. (a) (1) Within the limit of funds allotted for these
23 purposes, the state council chairperson, with the concurrence of a
24 majority of the state council, shall appoint an executive director
25 and, pursuant to paragraph (1) of subdivision (c) of Section 4553,
26 shall appoint an executive director for each area board. The
27 Governor, upon the recommendation of the executive director of
28 the state council following consultation with the area boards,
29 shall appoint a deputy director for area board operations. The
30 Governor, upon recommendation of the executive director of the
31 state council, shall appoint not more than two deputy directors.
32 All other state council employees that the state council may
33 require shall be appointed by the executive director, with the
34 approval of the state council.

35 (2) The executive director, all deputy directors, and each area
36 board executive director, shall be paid a salary that is comparable
37 to the director, deputy director, or manager of other state boards,
38 commissions, or state department regional offices with similar
39 responsibilities. The executive director and three deputy directors

1 of the state council and the executive director of each area board
2 shall be exempt from civil service.

3 (b) Among other duties as the executive director of the state
4 council may require, the deputy director for area board
5 operations shall provide assistance to the area boards, including,
6 but not limited to, resolving common problems, improving
7 coordination, and fostering the exchange of information among
8 the area boards and between the area boards and the state
9 council.

10 (c) Each area board executive director employed by the state
11 on December 31, 2002, shall continue to be employed in a job
12 classification at the same or higher salary by the council on
13 January 1, 2003, and thereafter, unless he or she resigns or is
14 terminated from employment for good cause. The Executive
15 Director of the Organization of Area Boards on December 31,
16 2002, shall continue to be employed in a job classification at the
17 same or higher salary by the council on January 1, 2003, and
18 shall serve as the deputy director of area board operations unless
19 he or she resigns or is terminated from employment for good
20 cause.

21 *SEC. 2.5. Section 4622 of the Welfare and Institutions Code*
22 *is amended to read:*

23 4622. The state shall contract only with agencies, the
24 governing boards of which conform to all of the following
25 criteria:

26 (a) The governing board shall be composed of individuals with
27 demonstrated interest in, or knowledge of, developmental
28 disabilities.

29 (b) The membership of the governing board shall include
30 persons with legal, management, public relations, and
31 developmental disability program skills.

32 (c) The membership of the governing board shall include
33 representatives of the various categories of disability to be served
34 by the regional center.

35 (d) The governing board shall reflect the geographic and
36 ethnic characteristics of the area to be served by the regional
37 center.

38 (e) A minimum of 50 percent of the members of the governing
39 board shall be persons with developmental disabilities or their
40 parents or legal guardians. No less than 25 percent of the

1 members of the governing board shall be persons with
2 developmental disabilities.

3 (f) Members of the governing board shall not be permitted to
4 serve more than ~~six~~ *seven* years within each eight-year period.

5 (g) The regional center shall provide necessary training and
6 support to these board members to facilitate their understanding
7 and participation. As part of its monitoring responsibility, the
8 department shall review and approve the method by which
9 training and support are provided to board members to ensure
10 maximum understanding and participation by board members.

11 (h) The governing board may appoint a consumers' advisory
12 committee composed of persons with developmental disabilities
13 representing the various categories of disability served by the
14 regional center.

15 (i) The governing board shall appoint an advisory committee
16 composed of a wide variety of persons representing the various
17 categories of providers from which the regional center purchases
18 client services. The advisory committee shall provide advice,
19 guidance, recommendations, and technical assistance to the
20 regional center board in order to assist the regional center in
21 carrying out its mandated functions. The advisory committee
22 shall designate one of its members to serve as a member of the
23 regional center board.

24 (j) The governing board shall annually review the performance
25 of the director of the regional center.

26 (k) No member of the board who is an employee or member of
27 the governing board of a provider from which the regional center
28 purchases client services shall do any of the following:

29 (1) Serve as an officer of the board.

30 (2) Vote on any fiscal matter affecting the purchase of services
31 from any regional center provider.

32 (3) Vote on any issue other than as described in paragraph (2),
33 in which the member has a financial interest, as defined in
34 Section 87103 of the Government Code, and determined by the
35 regional center board. The member shall provide a list of his or
36 her financial interests, as defined in Section 87103, to the
37 regional center board.

38 Nothing in this section shall prevent the appointment to a
39 regional center governing board of a person who meets the
40 criteria for more than one of the categories listed above.

1 This section shall become operative on July 1, 1999.

2 SEC. 3. Section 4646.5 of the Welfare and Institutions Code
3 is amended to read:

4 4646.5. (a) The planning process for the individual program
5 plan described in Section 4646 shall include all of the following:

6 (1) Gathering information and conducting assessments to
7 determine the life goals, capabilities and strengths, preferences,
8 barriers, and concerns or problems of the person with
9 developmental disabilities. For children with developmental
10 disabilities, this process should include a review of the strengths,
11 preferences, and needs of the child and the family unit as a
12 whole. Assessments shall be conducted by qualified individuals
13 and performed in natural environments whenever possible.
14 Information shall be taken from the consumer, his or her parents
15 and other family members, his or her friends, advocates,
16 providers of services and supports, and other agencies. The
17 assessment process shall reflect awareness of, and sensitivity to,
18 the lifestyle and cultural background of the consumer and the
19 family.

20 (2) A statement of goals, based on the needs, preferences, and
21 life choices of the individual with developmental disabilities, and
22 a statement of specific, time-limited objectives for implementing
23 the person's goals and addressing his or her needs. These
24 objectives shall be stated in terms that allow measurement of
25 progress or monitoring of service delivery. These goals and
26 objectives should maximize opportunities for the consumer to
27 develop relationships, be part of community life in the areas of
28 community participation, housing, work, school, and leisure,
29 increase control over his or her life, acquire increasingly positive
30 roles in community life, and develop competencies to help
31 accomplish these goals.

32 (3) When developing individual program plans for children,
33 regional centers shall be guided by the principles, process, and
34 services and support parameters set forth in Section 4685.

35 (4) A schedule of the type and amount of services and
36 supports to be purchased by the regional center or obtained from
37 generic agencies or other resources in order to achieve the
38 individual program plan goals and objectives, and identification
39 of the provider or providers of service responsible for attaining
40 each objective, including, but not limited to, vendors, contracted

1 providers, generic service agencies, and natural supports. The
2 plan shall specify the approximate scheduled start date for
3 services and supports and shall contain timelines for actions
4 necessary to begin services and supports, including generic
5 services.

6 (5) When agreed to by the consumer, the parents or legally
7 appointed guardian of a minor consumer, or the legally appointed
8 conservator of an adult consumer or the authorized
9 representative, including those appointed pursuant to subdivision
10 (d) of Section 4548 and subdivision (e) of Section 4705, a review
11 of the general health status of the adult or child including a
12 medical, dental, and mental health needs shall be conducted. This
13 review shall include a discussion of current medications, any
14 observed side effects, and the date of last review of the
15 medication. Service providers shall cooperate with the planning
16 team to provide any information necessary to complete the health
17 status review. If any concerns are noted during the review,
18 referrals shall be made to regional center clinicians or to the
19 consumer's physician, as appropriate. Documentation of health
20 status and referrals shall be made in the consumer's record by the
21 service coordinator.

22 (6) A schedule of regular periodic review and reevaluation to
23 ascertain that planned services have been provided, that
24 objectives have been fulfilled within the times specified, and that
25 consumers and families are satisfied with the individual program
26 plan and its implementation.

27 (b) For all active cases, individual program plans shall be
28 reviewed and modified by the planning team, through the process
29 described in Section 4646, as necessary, in response to the
30 person's achievement or changing needs, and no less often than
31 once every three years. If the consumer or, where appropriate, the
32 consumer's parents, legal guardian, or conservator requests an
33 individual program plan review, the individual program shall be
34 reviewed within 30 days after the request is submitted.

35 (c) (1) The department, with the participation of
36 representatives of a statewide consumer organization, the
37 Association of Regional Center Agencies, an organized labor
38 organization representing service coordination staff, and the
39 Organization of Area Boards shall prepare training material and
40 a standard format and instructions for the preparation of

1 individual program plans, which embodies an approach centered
2 on the person and family.

3 (2) Each regional center shall use the training materials and
4 format prepared by the department pursuant to paragraph (1).

5 (3) The department shall biennially review a random sample
6 of individual program plans at each regional center to assure that
7 these plans are being developed and modified in compliance with
8 Section 4646 and this section.

9 SEC. 4. Section 4648 of the Welfare and Institutions Code is
10 amended to read:

11 4648. In order to achieve the stated objectives of a
12 consumer's individual program plan, the regional center shall
13 conduct activities including, but not limited to, all of the
14 following:

15 (a) Securing needed services and supports.

16 (1) It is the intent of the Legislature that services and supports
17 assist individuals with developmental disabilities in achieving the
18 greatest self-sufficiency possible and in exercising personal
19 choices. The regional center shall secure services and supports
20 that meet the needs of the consumer, as determined in the
21 consumer's individual program plan, and within the context of
22 the individual program plan, the planning team shall give highest
23 preference to those services and supports which would allow
24 minors with developmental disabilities to live with their families,
25 adult persons with developmental disabilities to live as
26 independently as possible in the community, and that allow all
27 consumers to interact with persons without disabilities in
28 positive, meaningful ways.

29 (2) In implementing individual program plans, regional
30 centers, through the planning team, shall first consider services
31 and supports in natural community, home, work, and recreational
32 settings. Services and supports shall be flexible and individually
33 tailored to the consumer and, where appropriate, his or her
34 family.

35 (3) A regional center may, pursuant to vendorization or a
36 contract, purchase services or supports for a consumer from any
37 individual or agency which the regional center and consumer or,
38 where appropriate, his or her parents, legal guardian, or
39 conservator, or authorized representatives, determines will best
40 accomplish all or any part of that consumer's program plan.

1 (A) Vendorization or contracting is the process for
2 identification, selection, and utilization of service vendors or
3 contractors, based on the qualifications and other requirements
4 necessary in order to provide the service.

5 (B) A regional center may reimburse an individual or agency
6 for services or supports provided to a regional center consumer if
7 the individual or agency has a rate of payment for vendored or
8 contracted services established by the department, pursuant to
9 this division, and is providing services pursuant to an emergency
10 vendorization or has completed the vendorization procedures or
11 has entered into a contract with the regional center and continues
12 to comply with the vendorization or contracting requirements.
13 The director shall adopt regulations governing the vendorization
14 process to be utilized by the department, regional centers,
15 vendors and the individual or agency requesting vendorization.

16 (C) Regulations shall include, but not be limited to: the vendor
17 application process, and the basis for accepting or denying an
18 application; the qualification and requirements for each category
19 of services that may be provided to a regional center consumer
20 through a vendor; requirements for emergency vendorization;
21 procedures for termination of vendorization; the procedure for an
22 individual or an agency to appeal any vendorization decision
23 made by the department or regional center.

24 (D) A regional center may vendorize a licensed facility for
25 exclusive services to persons with developmental disabilities at a
26 capacity equal to or less than the facility's licensed capacity. A
27 facility already licensed on January 1, 1999, shall continue to be
28 vendorized at their full licensed capacity until the facility agrees
29 to vendorization at a reduced capacity.

30 (4) Notwithstanding subparagraph (B), a regional center may
31 contract or issue a voucher for services and supports provided to
32 a consumer or family at a cost not to exceed the maximum rate of
33 payment for that service or support established by the
34 department. If a rate has not been established by the department,
35 the regional center may, for an interim period, contract for a
36 specified service or support with, and establish a rate of payment
37 for, any provider of the service or support necessary to
38 implement a consumer's individual program plan. Contracts may
39 be negotiated for a period of up to three years, with annual
40 review and subject to the availability of funds.

1 (5) In order to ensure the maximum flexibility and availability
2 of appropriate services and supports for persons with
3 developmental disabilities, the department shall establish and
4 maintain an equitable system of payment to providers of services
5 and supports identified as necessary to the implementation of a
6 consumers' individual program plan. The system of payment
7 shall include provision for a rate to ensure that the provider can
8 meet the special needs of consumers and provide quality services
9 and supports in the least restrictive setting as required by law.

10 (6) The regional center and the consumer, or where
11 appropriate, his or her parents, legal guardian, conservator, or
12 authorized representative, including those appointed pursuant to
13 subdivision (d) of Section 4548 or subdivision (e) of Section
14 4705, shall, pursuant to the individual program plan, consider all
15 of the following when selecting a provider of consumer services
16 and supports:

17 (A) A provider's ability to deliver quality services or supports
18 which can accomplish all or part of the consumer's individual
19 program plan.

20 (B) A provider's success in achieving the objectives set forth
21 in the individual program plan.

22 (C) Where appropriate, the existence of licensing,
23 accreditation, or professional certification.

24 (D) The cost of providing services or supports of comparable
25 quality by different providers, if available.

26 (E) The consumer's or, where appropriate, the parents, legal
27 guardian, or conservator of a consumer's choice of providers.

28 (7) No service or support provided by any agency or
29 individual shall be continued unless the consumer or, where
30 appropriate, his or her parents, legal guardian, or conservator, or
31 authorized representative, including those appointed pursuant to
32 subdivision (d) of Section 4548 or subdivision (e) of Section
33 4705, is satisfied and the regional center and the consumer or,
34 when appropriate, the person's parents or legal guardian or
35 conservator agree that planned services and supports have been
36 provided, and reasonable progress toward objectives have been
37 made.

38 (8) Regional center funds shall not be used to supplant the
39 budget of any agency which has a legal responsibility to serve all

1 members of the general public and is receiving public funds for
2 providing those services.

3 (9) (A) A regional center may, directly or through an agency
4 acting on behalf of the center, provide placement in, purchase of,
5 or follow-along services to persons with developmental
6 disabilities in, appropriate community living arrangements,
7 including, but not limited to, support service for consumers in
8 homes they own or lease, foster family placements, health care
9 facilities, and licensed community care facilities. In considering
10 appropriate placement alternatives for children with
11 developmental disabilities, approval by the child's parent or
12 guardian shall be obtained before placement is made.

13 (B) Each person with developmental disabilities placed by the
14 regional center in a community living arrangement shall have the
15 rights specified in this division. These rights shall be brought to
16 the person's attention by any means necessary to reasonably
17 communicate these rights to each resident, provided that, at a
18 minimum, the Director of Developmental Services prepare,
19 provide, and require to be clearly posted in all residential
20 facilities and day programs a poster using simplified language
21 and pictures that is designed to be more understandable by
22 persons with cognitive disabilities and that the rights information
23 shall also be available through the regional center to each
24 residential facility and day program in alternative formats,
25 including, but not limited to, other languages, braille, and audio
26 tapes, when necessary to meet the communication needs of
27 consumers.

28 (C) Consumers are eligible to receive supplemental services
29 including, but not limited to, additional staffing, pursuant to the
30 process described in subdivision (d) of Section 4646. Necessary
31 additional staffing that is not specifically included in the rates
32 paid to the service provider may be purchased by the regional
33 center if the additional staff are in excess of the amount required
34 by regulation and the individual's planning team determines the
35 additional services are consistent with the provisions of the
36 individual program plan. Additional staff should be periodically
37 reviewed by the planning team for consistency with the
38 individual program plan objectives in order to determine if
39 continued use of the additional staff is necessary and appropriate
40 and if the service is producing outcomes consistent with the

1 individual program plan. Regional centers shall monitor
2 programs to ensure that the additional staff is being provided and
3 utilized appropriately.

4 (10) Emergency and crisis intervention services including, but
5 not limited to, mental health services and behavior modification
6 services, may be provided, as needed, to maintain persons with
7 developmental disabilities in the living arrangement of their own
8 choice. Crisis services shall first be provided without disrupting a
9 person's living arrangement. If crisis intervention services are
10 unsuccessful, emergency housing shall be available in the
11 person's home community. If dislocation cannot be avoided,
12 every effort shall be made to return the person to his or her living
13 arrangement of choice, with all necessary supports, as soon as
14 possible.

15 (11) Among other service and support options, planning teams
16 shall consider the use of paid roommates or neighbors, personal
17 assistance, technical and financial assistance, and all other
18 service and support options which would result in greater
19 self-sufficiency for the consumer and cost-effectiveness to the
20 state.

21 (12) When facilitation as specified in an individual program
22 plan requires the services of an individual, the facilitator shall be
23 of the consumer's choosing.

24 (13) The community support may be provided to assist
25 individuals with developmental disabilities to fully participate in
26 community and civic life, including, but not limited to, programs,
27 services, work opportunities, business, and activities available to
28 persons without disabilities. This facilitation shall include, but
29 not be limited to, any of the following:

30 (A) Outreach and education to programs and services within
31 the community.

32 (B) Direct support to individuals which would enable them to
33 more fully participate in their community.

34 (C) Developing unpaid natural supports when possible.

35 (14) Other services and supports may be provided as set forth
36 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

37 (b) (1) Advocacy for, and protection of, the civil, legal, and
38 service rights of persons with developmental disabilities as
39 established in this division.

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(c) The regional center may assist consumers and families directly, or through a provider, in identifying and building circles of support within the community.

(d) In order to increase the quality of community services and protect consumers, the regional center shall, when appropriate, take either of the following actions:

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for any agency or individual provider to assist that agency or individual provider in upgrading the quality of services or supports.

(2) Identify providers of services or supports that may not be in compliance with local, state, and federal statutes and regulations and notify the appropriate licensing or regulatory authority, or request the area board to investigate the possible noncompliance.

(e) When necessary to expand the availability of needed services of good quality, a regional center may take actions that include, but are not limited to, the following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain those services for its consumers.

1 (g) Where there are identified gaps in the system of services
2 and supports or where there are identified consumers for whom
3 no provider will provide services and supports contained in his or
4 her individual program plan, the department may provide the
5 services and supports directly.

6 SEC. 5. Section 4677 of the Welfare and Institutions Code is
7 amended to read:

8 4677. (a) All parental fees collected by or for regional
9 centers shall be remitted to the State Treasury to be deposited in
10 the Developmental Disabilities Program Development Fund,
11 which is hereby created and hereinafter called the Program
12 Development Fund. The purpose of the Program Development
13 Fund shall be to provide resources needed to initiate new
14 programs, consistent with approved priorities for program
15 development in the state plan.

16 In no event shall an allocation from the Program Development
17 Fund be granted for more than 24 months.

18 (b) *(1)* The State Council on Developmental Disabilities, in
19 conjunction with the area boards shall, at least once every five
20 years, request from all regional centers information on the types
21 and amounts of services and supports needed, but currently
22 ~~unavailable. The methodology for collection of this information,~~
23 ~~and the format to be used to display the information, shall be~~
24 ~~jointly determined by the Executive Director of the State Council~~
25 ~~on Developmental Disabilities and the Executive Director of the~~
26 ~~Association of Regional Center Agencies. Based on the~~
27 ~~information provided by the regional centers and other agencies,~~
28 ~~the State Council on Developmental Disabilities shall develop an~~
29 ~~assessment of the level of need for new community services and~~
30 ~~support, and make that assessment available to the public. This~~
31 ~~needs assessment shall be included in the state plan. The State~~
32 ~~Council on Developmental Disabilities, in consultation with the~~
33 ~~State Department of Developmental Services, shall make a~~
34 ~~recommendation to the Department of Finance as to the level of~~
35 ~~funding for program development to be included in the~~
36 ~~Governor's Budget, based upon this needs assessment.~~
37 ~~unavailable.~~

38 *(2) The state council shall work collaboratively with the*
39 *department and the Association of Regional Center Agencies to*
40 *develop standardized forms and protocols that shall be used by*

1 all regional centers and area boards in collecting and reporting
2 this information. In addition to identifying services and supports
3 that are insufficiently available to meet existing needs, the forms
4 and protocols shall also solicit input and suggestions on
5 alternative and innovative service delivery models that would
6 address unmet consumer needs.

7 (3) In addition to the information provided pursuant to
8 paragraph (2), the state council may utilize information from
9 other sources, including, but not limited to, public hearings, life
10 quality assessments conducted pursuant to Section 4570, the
11 annual report regarding persons moving from developmental
12 centers produced pursuant to Section 4418.1, the annual report
13 regarding community-based vendor services produced pursuant
14 to Section 4637.5, regional center reports on alternative service
15 delivery submitted to the department pursuant to Section 4669.2,
16 and the annual report on self-directed services produced
17 pursuant to Section 4685.7.

18 (4) The department shall provide additional information, as
19 requested by the state council.

20 (5) Based on the information provided by the regional centers
21 and other agencies, the state council shall develop an assessment
22 of the need for new community services and support, and make
23 that assessment available to the public. The assessment shall
24 include a discussion of the type and amount of services and
25 supports necessary to address unmet consumer needs and shall
26 discuss the degree to which consumers with common
27 characteristics, including, but not limited to, disability, specified
28 geographic regions, age, and ethnicity, face distinct challenges
29 due to unmet needs. The assessment shall highlight alternative
30 and innovative service delivery models identified through their
31 assessment process.

32 (6) This needs assessment shall be conducted at least once
33 every five years and updated annually. The assessment shall be
34 included in the state plan and shall be provided to the
35 department and to the appropriate committees of the Legislature.
36 The assessment and annual updates shall be made available to
37 the public. The State Council on Developmental Disabilities, in
38 consultation with the department, shall make a recommendation
39 to the Department of Finance as to the level of funding for

1 *program development to be included in the Governor's Budget,*
2 *based upon this needs assessment.*

3 (c) Parental fee schedules shall be evaluated pursuant to
4 Section 4784 and adjusted annually by the department, with the
5 approval of the state council. Fees for out-of-home care shall
6 bear an equitable relationship to the cost of the care and the
7 ability of the family to pay.

8 (d) In addition to parental fees and General Fund
9 appropriations, the Program Development Fund may be
10 augmented by federal funds available to the state for program
11 development purposes, when these funds are allotted to the
12 Program Development Fund in the state plan. The Program
13 Development Fund is hereby appropriated to the department, and
14 subject to any allocations which may be made in the annual
15 Budget Act. In no event shall any of these funds revert to the
16 General Fund.

17 (e) The department may allocate funds from the Program
18 Development Fund for any legal purpose, provided that requests
19 for proposals and allocations are approved by the state council in
20 consultation with the department, and are consistent with the
21 priorities for program development in the state plan. Allocations
22 from the Program Development Fund shall take into
23 consideration the following factors:

24 (1) The future fiscal impact of the allocations on other state
25 supported services and supports for persons with developmental
26 disabilities.

27 (2) The information on priority services and supports needed,
28 but currently unavailable, submitted by the regional centers.

29 Consistent with the level of need as determined in the state
30 plan, excess parental fees may be used for purposes other than
31 new program development only when specifically appropriated
32 to the State Department of Developmental Services for those
33 purposes.

34 (f) Under no circumstances shall the deposit of federal moneys
35 into the Program Development Fund be construed as requiring
36 the State Department of Developmental Services to comply with
37 a definition of "developmental disabilities" and "services for
38 persons with developmental disabilities" other than as specified
39 in subdivisions (a) and (b) of Section 4512 for the purposes of
40 determining eligibility for developmental services or for

1 allocating parental fees and state general funds deposited in the
2 Program Development Fund.

3 SEC. 6. Section 4701.6 of the Welfare and Institutions Code
4 is amended to read:

5 4701.6. "Authorized representative" means the conservator of
6 an adult, the guardian, conservator, or parent or person having
7 legal custody of a minor claimant, or a person or agency
8 appointed pursuant to subdivision (d) of Section 4548 or
9 subdivision (e) of Section 4705 and authorized in writing by the
10 claimant or by the legal guardian, conservator, or parent or
11 person having legal custody of a minor claimant to act for or
12 represent the claimant under this chapter.

13 SEC. 7. Section 4705 of the Welfare and Institutions Code is
14 amended to read:

15 4705. (a) Every service agency shall, as a condition of
16 continued receipt of state funds, have an agency fair hearing
17 procedure for resolving conflicts between the service agency and
18 recipients of, or applicants for, service. The State Department of
19 Developmental Services shall promulgate regulations to
20 implement this chapter by July 1, 1999, which shall be binding
21 on every service agency.

22 Any public or private agency receiving state funds for the
23 purpose of serving persons with developmental disabilities not
24 otherwise subject to the provisions of this chapter shall, as a
25 condition of continued receipt of state funds, adopt and
26 periodically review a written internal grievance procedure.

27 (b) An agency that employs a fair hearing procedure mandated
28 by any other statute shall be considered to have an approved
29 procedure for purposes of this chapter.

30 (c) The service agency's mediation and fair hearing procedure
31 shall be stated in writing, in English and any other language that
32 may be appropriate to the needs of the consumers of the agency's
33 service. A copy of the procedure and a copy of the provisions of
34 this chapter shall be prominently displayed on the premises of the
35 service agency.

36 (d) All recipients and applicants, and persons having legal
37 responsibility for recipients or applicants, shall be informed
38 verbally of, and shall be notified in writing in a language which
39 they comprehend of, the service agency's mediation and fair
40 hearing procedure when they apply for service, when they are

1 denied service, and when notice of service modification is given
2 pursuant to Section 4710.

3 (e) If, in the opinion of any person, the rights or interests of a
4 claimant who has not personally authorized a representative will
5 not be properly protected or advocated, the local area board and
6 the clients' right advocate assigned to the regional center or
7 developmental center shall be notified, and the area board may
8 appoint a person or agency as representative, pursuant to
9 subdivision (d) of Section 4548, to assist the claimant in the
10 mediation and fair hearing procedure. The appointment shall be
11 in writing to the authorized representative and a copy of the
12 appointment shall be immediately mailed to the service agency
13 director.

14 SEC. 8. Section 4747 of the Welfare and Institutions Code is
15 amended to read:

16 4747. If a consumer or, when appropriate, the parent,
17 guardian, or conservator or authorized representative, including
18 those appointed pursuant to subdivision (d) of Section 4548 or
19 subdivision (e) of Section 4705, requests a relocation, the
20 regional center shall schedule an individual program plan
21 meeting, as soon as possible to assist in locating and moving to
22 another residence.

23 SEC. 9. Section 4803 of the Welfare and Institutions Code is
24 amended to read:

25 4803. If a regional center recommends that a person be
26 admitted to a community care facility or health facility as a
27 developmentally disabled resident, the employee or designee of
28 the regional center responsible for making the recommendations
29 shall certify in writing that neither the person recommended for
30 admission to a community care facility or health facility, nor the
31 parent of a minor or conservator of an adult, if appropriate, nor
32 the person or agency appointed pursuant to subdivision (d) of
33 Section 4548 or subdivision (e) of Section 4705 has made an
34 objection to the admission to the person making the
35 recommendation. The regional center shall transmit the
36 certificate, or a copy thereof, to the community care facility or
37 health facility.

38 A community care facility or health facility shall not admit any
39 adult as a developmentally disabled patient on recommendation

1 of a regional center unless a copy of the certificate has been
2 transmitted pursuant to this section.

3 Any person who, knowing that objection to a community care
4 facility or health facility admission has been made, certifies that
5 no objection has been made, shall be guilty of a misdemeanor.

6 Objections to proposed placements shall be resolved by a fair
7 hearing procedure pursuant to Section 4700.

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